



Monday
May 8, 1995

Part XLVIII

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION (CFTC)

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

ADDRESSES: Comments should be sent to: Gerry Smith, Special Assistant to the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254-6090.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of April and October of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable

concerning the items listed in paragraph (1).

5 U.S.C. 602(a). The Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year, irrespective of their potential impact on small entities.¹

The Commission's agenda represents its best estimate of significant rules which will be considered over the next 12 months.² In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda."

The Commission's April 1995 regulatory flexibility agenda is set forth below.

Issued in Washington, DC, on March 14, 1995, by the Commission.

Jean A. Webb,
Secretary of the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
4645	Procedures for Involuntary Bulk Transfers or Liquidations of Customer Accounts	3038-AA77
4646	Prohibition on Voting by Interested Members	3038-AB03
4647	Section 4(c) Contract Market Transactions; Swap Agreements	3038-AB06

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4648	Review of Commission Disclosure Requirements Concerning Commodity Pool Operators	3038-AA74
4649	Risk Assessment for Holding Company Systems	3038-AB01
4650	Account Identification for Orders Submitted on Behalf of Multiple Customer Accounts	3038-AB08
4651	Ethics Training for Registrants	3038-AB09

¹ The Commission has published its definition of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (April 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. See 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not

have a significant economic impact on a substantial number of small entities. Accordingly, listing of a rule in this regulatory flexibility agenda should not in any event be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda, which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and

meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

² In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar and, on a weekly basis, an advisory, which lists rules that the Commission is considering or will consider in the near future.

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Proposed Rule Stage

4645. PROCEDURES FOR INVOLUNTARY BULK TRANSFERS OR LIQUIDATIONS OF CUSTOMER ACCOUNTS

Legal Authority: 7 USC 6d; 7 USC 6f; 7 USC 6g; 7 USC 6k; 7 USC 12a

CFR Citation: 17 CFR 1.68

Legal Deadline: None

Abstract: The CFTC will undertake a rulemaking proceeding to establish requirements concerning procedures to be followed by futures commission merchants and introducing brokers when bulk transfers or liquidations of customer accounts are made due to cessation or suspension of business or other special circumstances affecting the registrant.

Timetable:

Action	Date	FR Cite
NPRM	09/00/95	
NPRM Comment Period End	11/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: None

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AA77

4646. PROHIBITION ON VOTING BY INTERESTED MEMBERS

Priority: Regulatory Plan

Legal Authority: 7 USC 7a(17) (Supp IV 1992)

CFR Citation: 17 CFR 1.67

Legal Deadline: None

Abstract: The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992 which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee which would require abstention from deliberations and voting. The rulemaking also will provide guidelines on situations which would require a member to abstain from voting on a significant action because of a

substantial financial interest in the outcome of the vote based on positions held personally or at an affiliated firm, as well as other matters addressed by the statute. The action will potentially impact the selection and composition of contract market governing boards and committees.

Statement of Need: The regulation will implement the provisions of section 217 of the Futures Trading Practices Act of 1992 which require contract markets to adopt rules to avoid conflicts of interest in deliberations and voting by members of the governing board and disciplinary and other oversight committees. The rulemaking will define the relationships between a named party in interest and a member of the governing board or committee which would require abstention from deliberations and voting. The rulemaking also will provide guidelines on situations which would require a member to abstain from voting on a significant action because of a substantial financial interest in the outcome of the vote based on positions held personally or at an affiliated firm, as well as other matters addressed by the statute. The action will potentially impact the selection and composition of contract market governing boards and committees. This rulemaking will further the regulatory objective of oversight of contract markets so as to assure that the markets remain open, competitive and efficient.

Alternatives: These rules are required by statutory mandate set forth in the Futures Trading Practices Act of 1992. The Commission intends to pursue this rulemaking to achieve rules that will fulfill this statutory mandate in a cost-effective manner.

Anticipated Costs and Benefits: As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	04/00/95	

Action	Date	FR Cite
NPRM Comment Period End	05/00/95	
Final Action	07/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AB03

4647. SECTION 4(C) CONTRACT MARKET TRANSACTIONS; SWAP AGREEMENTS

Legal Authority: 7 USC 2; 7 USC 6; 7 USC 6c; 7 USC 12a

CFR Citation: 17 CFR 35; 17 CFR 36

Legal Deadline: None

Abstract: The Commodity Futures Trading Commission has received petitions for exemptive relief submitted by the Chicago Mercantile Exchange ("CME") and the Board of Trade of the City of Chicago ("CBOT"). The petitions request exemptions from most of the requirements of Commodity Exchange Act ("CEA" or "Act") and Commission regulations for certain exchange-traded futures and option contracts pursuant to Section 4(c) of the Act. In response to the petition requests, the Commission has proposed rules which will permit certain contract market transactions meeting specified criteria to trade pursuant to exemption from certain requirements under the Act and Commission regulations on a section 4(c) contract market. The Commission is also seeking comment on whether Part 35 (exemption of swap agreements) should be amended to include stand-alone prohibitions on fraud and price manipulation.

Timetable:

Action	Date	FR Cite
NPRM	10/28/94	59 FR 54139
NPRM Comment Period Extended to 1/31/95	12/14/94	59 FR 64359
Next Action Undetermined		

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Ellyn S. Roth, Attorney, Office of the General Counsel, Commodity Futures Trading

CFTC Proposed Rule Stage

Commission, 2033 K Street NW.,
Washington, DC 20581, 202 254-9880
RIN: 3038-AB06

COMMODITY FUTURES TRADING COMMISSION (CFTC) Final Rule Stage

4648. REVIEW OF COMMISSION
DISCLOSURE REQUIREMENTS
CONCERNING COMMODITY POOL
OPERATORS

Priority: Regulatory Plan

Legal Authority: 7 USC 2; 7 USC 6b;
7 USC 6c; 7 USC 6l; 7 USC 6m; 7 USC
6n; 7 USC 6o; 7 USC 12a

CFR Citation: 17 CFR 4.21; 17 CFR
4.31; 17 CFR 4.10

Legal Deadline: None

Abstract: The Commission will review
its requirements concerning disclosure
materials to be provided pool
participants and customers of
commodity trading advisors with a
view toward simplifying the disclosure
process, reducing any unnecessary
burdens, and harmonizing the
Commission's disclosure requirements
with those of other domestic and
international regulators.

Statement of Need: The proposed
amendments reflect the Commission's
experience in applying the disclosure
requirements set forth in part 4 of the
Commission's rules and significant
evolution in the purposes, structure
and activities of the managed funds
marketplace. These proposed
modifications of the CPO and CTA
disclosure framework are designed to
achieve greater simplicity, focus and
clarity in performance history
presentations; streamlining of other
required disclosures; and a more
concise and readable format for
disclosure documents. They are
intended to further regulatory priorities
by ensuring that full disclosure is made
to customers while reducing
unnecessary burdens upon commodity
pool operators and commodity trading
advisors and simplifying the disclosure
process for all participants.

Based upon more than fifteen years of
experience with administering the part
4 disclosure framework for CPOs and
CTAs, the Commission has undertaken
a comprehensive review of the
disclosure requirements for CPOs and
CTAs to identify areas in which the
regulatory structure can be streamlined

or simplified, while continuing to
provide appropriate customer
protection. The amendments have three
major purposes: (1) simplification of
past performance disclosures; (2)
reduction of required disclosures as to
matters of secondary relevance, such as
litigation history, business background
and conflicts of interest; and (3)
clarification and modernization of
various requirements. Disclosure
documents would be required to
contain a table of contents. General
information concerning the pool,
including the break-even point, would
be required to be set forth in the
forepart of the document. The number
and content of various previously
required bold-face "boilerplate"
cautionary statements would be
reduced and all information voluntarily
provided would be required to follow
the relevant required disclosures.

Alternatives: Changes are also
proposed to generally facilitate pool
offerings, particularly with respect to
areas of overlap or potential
inconsistency with Securities and
Exchange Commission (SEC) rules.
Thus, under the revisions, CPOs may
update pool disclosure documents
every 9 months, consistent with SEC
requirements, rather than every 6
months, as under current CFTC rules.
In addition, CPOs may provide
accredited investors with a notice of
intended offering and term sheet, prior
to delivery of a disclosure document.

Similar changes are proposed to be
made to the requirements applicable to
CTA disclosure documents.

Anticipated Costs and Benefits: As a
financial regulator, the Commission is
acutely aware of the costs of regulation.
Throughout its history, the Commission
has taken into account the costs of its
proposed regulations in order to ensure
that the benefits of its regulations
outweigh the costs. To date, we know
of no Commission regulation that
adversely affected small entities as
defined under the Regulatory
Flexibility Act, 5. U.S.C. 601-611
(1988).

Timetable:

Action	Date	FR Cite
NPRM	05/16/94	59 FR 25351
NPRM Comment Period End	08/17/94	
Final Action	04/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Barbara S. Gold,
Assistant Chief Counsel, Division of
Trading and Markets, Commodity
Futures Trading Commission, 2033 K
Street NW., Washington, DC 20581, 202
254-8955

RIN: 3038-AA74

4649. RISK ASSESSMENT FOR
HOLDING COMPANY SYSTEMS

Priority: Regulatory Plan

Legal Authority: 7 USC 6f(c) (Supp IV
1992)

CFR Citation: 17 CFR 1.14; 17 CFR
1.15

Legal Deadline: None

Abstract: On December 21, 1994, the
Commission adopted, as Phase I of the
risk assessment rulemaking, final rules
with respect to maintenance and filing
of organizational charts, risk
management policies, procedures and
systems, and consolidated and
consolidating financial statements, as
well as proposed "trigger" event
reporting in the event of a twenty
percent decline in an FCM's adjusted
net capital. The Commission deferred
action on the balance of the proposed
rules, which related to reporting of
position data and other data concerning
FCM affiliates. With respect to the
second phase of the rulemaking
process, the Commission's staff will
continue to work with other financial
regulators, particularly the Securities
and Exchange Commission, to design a
reporting framework that is harmonized
across regulatory structures and, to the
extent possible, reflective of a
consensus as to which data are most
meaningful to regulators and can be
provided without undue burden.

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Statement of Need: These rules, authorized by Congress in section 229 of the Futures Trading Practices Act of 1992, Public Law 102-546, 106 Stat. 3590 (1992), are intended to enhance the Commission's financial surveillance program by providing the Commission with access to information concerning the activities of affiliates of registered futures commission merchants (FCMs) whose activities are reasonably likely to have a material impact on the financial or operational condition of the FCM. These adopted rules require registered FCMs to maintain certain records concerning the financial activities of such material affiliates, to file certain information with the Commission on an annual basis and to provide additional information to the Commission upon the occurrence of specified events. The records required to be maintained and the information required to be filed routinely include an organizational chart, risk management policies, and consolidated and consolidating financial statements. In addition, notice of a twenty percent decline in an FCM's adjusted net capital is required. Proposals related to securities and commodity position data, financial instrument holdings, information regarding positions of affiliates carried by FCM's as well as certain other "trigger" events for reporting purposes have been deferred.

The Commission views these rules as necessary to fulfill its objectives of protecting customer funds and ensuring financial integrity of regulated intermediaries. The rules are intended to enhance the safeguards of customer funds by providing the Commission with increased access to material information concerning the operations of affiliates of the FCM whose activities may expose the FCM to financial or operational risks. The new statutory authority under which these rules were adopted recognizes that, as illustrated by the experience of the CFTC and other regulators with several recent failures of regulated brokerage firms, the operations of regulated FCMs may be materially affected by, and only understood in conjunction with, the activities of affiliated entities, many of which may be unregulated. Concomitantly, the effectiveness of ongoing financial oversight programs may depend upon access to information concerning risks to the FCM created by affiliate activity, and the efficacy of regulatory responses to financial

problems at the regulated entity may be enhanced by access to information concerning relevant affiliate activity.

Alternatives: The proposals provide alternative filing options for an FCM that is also a securities broker-dealer, or that is part of a holding company with affiliates subject to the oversight of a Federal banking agency, State insurance commission or a foreign regulator with which the Commission has an information-sharing agreement to avoid duplicative reporting burdens. The staff has also consulted extensively with other financial regulators, and continues to do so, to explore the extent to which they may share with the Commission on a confidential basis relevant risk assessment information concerning entities subject to their supervision so as to reduce duplicative requirements.

Anticipated Costs and Benefits: As a financial regulator, the Commission is acutely aware of the costs of regulation. Throughout its history, the Commission has taken into account the costs of its proposed regulations in order to ensure that the benefits of its regulations outweigh the costs. To date, we know of no Commission regulation that adversely affected small entities as defined under the Regulatory Flexibility Act, 5 U.S.C. 601-611 (1988).

Timetable:

Action	Date	FR Cite
NPRM	03/01/94	59 FR 9689
NPRM Comment Period End	07/01/94	
Final Action	12/31/95	
Risk Assessment for Holding Company Systems		
Phase I	12/28/94	(59 FR 66674)
Phase II	12/31/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Lawrence T. Eckert, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, **202 254-8955**

RIN: 3038-AB01

4650. ACCOUNT IDENTIFICATION FOR ORDERS SUBMITTED ON BEHALF OF MULTIPLE CUSTOMER ACCOUNTS

Legal Authority: 7 USC 7; 7 USC 7a; 7 USC 7b; 7 USC 8; 7 USC 12a; 7 USC 12c

CFR Citation: 17 CFR 1.35

Legal Deadline: None

Abstract: These rule amendments permit consolidated futures orders for multiple accounts to be placed and executed on contract markets without individual customer identification at time of entry or execution. Depending on the accounts, the person placing the order would identify accounts and either pre-file an allocation plan or certify certain facts.

Timetable:

Action	Date	FR Cite
NPRM	05/03/93	58 FR 26270
NPRM Comment Period End	06/17/93	
Final Action	05/00/95	
Final Action Effective	06/00/95	

Small Entities Affected: None

Government Levels Affected: None

Agency Contact: Duane C. Andresen, Attorney Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, **202 254-8955**

RIN: 3038-AB08

4651. ETHICS TRAINING FOR REGISTRANTS

Legal Authority: 7 USC 1a; 7 USC 6d; 7 USC 6e; 7 USC 6g; 7 USC 6m; 7 USC 6p; 7 USC 12a; 7 USC 21

CFR Citation: 17 CFR 3.34

Legal Deadline: None

Abstract: The Commission is proposing amendments to its rule governing ethics training for registrants to provide additional guidance relative to ethics training providers. The proposed amendments would: (1) allow a person to provide ethics training if he certifies to a registered futures association that he is not subject to statutory disqualification from registration under the Commodity Exchange Act (Act), barred from service on self-regulatory organization governing boards or committees, or subject to a pending proceeding or investigation with respect to possible violations of the Act or rules or orders promulgated thereunder; (2) prohibit certain representations with respect to a person's status as an ethics training provider; (3) prohibit an ethics training provider from using that fact to qualify as an expert witness in an adjudicatory

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proceeding before the Commission or from proffering evidence of that fact to qualify as an expert witness in any adjudicatory proceeding to which the Commission is a party; (4) allow wider use of ethics training presentation by interactive means and video tape; and (5) require ethics training providers to furnish records of attendees (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/22/94	59 FR 37446

Action	Date	FR Cite
NPRM Comment Period End	09/20/94	
Final Action	05/00/95	
Final Action Effective	08/00/95	

Small Entities Affected: Undetermined

Government Levels Affected: Undetermined

Additional Information: ABSTRACT
CONT: to a registered futures association.

Agency Contact: Lawrence B. Patent, Associate Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, 202 254-8955

RIN: 3038-AB09
[FR Doc. 95-7560 Filed 05-05-95; 8:45 am]

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